

### **Remarks/Arguments**

Claim 1 has been amended such that the center portion of the disk is contoured to accommodate a hub. Support for this amendment can be found in the first full paragraph on Page 8 of the specification as originally filed. Claims 2 and 6 have been amended to correct typographical errors. Claims 9 & 12 have been added. Support for these claims can be found in the claims as originally filed. Claims 10 & 11 have been added. Support for these claims can be found in the third full paragraph on Page 9.

Upon entry of this amendment, Claims 1 - 12 will be pending in the application. A petition for a one month extension and the associated fee are included in this mailing.

Reconsideration of the captioned application in view of this amendment is respectfully requested.

### **The Objections under 35 U.S.C. 112 Have Been Overcome**

Claims 2 and 6 were objected to for a spelling error and a lack of antecedent basis. Applicants have amended claims 2 and 6 accordingly. Withdrawal of the objections is respectfully requested.

### **The Rejections under 35 U.S.C. 102 Have Been Overcome**

Claims 1, 2, 4 and 6 stand rejected under 35 U.S.C. §102 (e) as being anticipated by United States Patent Application No. 2003/0045200 to Tang et al. ("200"). Applicants respectfully disagree with this rejection. Rejections under 35 USC §102 are proper only when the claimed subject matter is identically disclosed or described in the prior art. In re Marshall, 198 USPQ 344 (CCPA 1978). In other words, to constitute an anticipation, all material elements recited in a claim must be found in one unit of prior art. Id.

The device shown in the '200 patent is a golfrisbee, and is designed to fly (paragraph 0014). It is not designed to spin on a hub or for an animal to run on it. The exercise disk of the present invention as defined in amended claim 1, is designed to spin on a hub and for an animal to run on it. Applicants respectfully submit that the claimed invention is not anticipated by the '200 patent, therefore Applicants respectfully request withdrawal of this rejection.

Claims 1 and 4 stand rejected under 35 U.S.C. §102 (b) as being anticipated by United States Patent No. 5,799,616 to McClung III ("616"). Applicants respectfully submit that the '616 patent teaches a throwing plate (column 2, lines 59 – 65). The throwing plate is not designed to spin on a hub or for an animal to run on it. Applicants respectfully submit that the claimed invention is not anticipated by the '616 patent. Applicants therefore respectfully request withdrawal of this rejection.

Claims 1 – 4, 6, 7 and 8 stand rejected under 35 U.S.C. §102 (b) as being anticipated by United States Patent No. 4,212,131 to Ross, Jr. ("131"). Applicants respectfully submit that the '131 patent teaches a toy that can be spun on a finger tip or thrown (column 2, lines 5 - 11). The toy is not designed to spin on a hub or for an animal to run on it. Applicants respectfully submit that the claimed invention is not anticipated by the '131 patent. Applicants therefore respectfully request withdrawal of this rejection. Claims 1 and 4 - 7 stand rejected under 35 U.S.C. §102 (b) as being anticipated by United States Patent No. 3,454,760 to Wilson ("760"). Applicants respectfully submit that the '760 patent teaches a toy aerial projection that can be attached to a child's cap (column 2, lines 23 - 30). The toy is not designed to spin on a hub or for an animal to run on it. Applicants respectfully submit that the claimed invention is not anticipated by the '760 patent. Applicants therefore respectfully request withdrawal of this rejection.

Claims 1, 2, 4 and 6 stand rejected under 35 U.S.C. §102 (b) as being anticipated by United States Patent No. 3,272,731 to Farhi et al. ("731"). Applicants respectfully submit that the '731 patent teaches a toy that can be spun or thrown (column 1, line 74 to column 2, line 27). The toy is not designed to spin on a hub or for an animal to run on it. Applicants respectfully submit that the claimed invention is not anticipated by the '731 patent. Applicants therefore respectfully request withdrawal of this rejection.

Claims 1, 3, 4, 6, and 7 stand rejected under 35 U.S.C. §102 (b) as being anticipated by United States Patent No. 6,578,526 to Hull ("526"). Applicants respectfully submit that the '526 patent teaches a disc that is attached to a stand but does not teach the present invention's contour for accommodating the stand itself.

In the office action, (page 5, line 1) the '526 patent's contour is identified by the Examiner as "contour at center opening (82) to conform to the shape of the hub". Applicants respectfully disagree. It is the applicants' position that the contours of '526 patent are to accommodate the means for attachment, and not the hub of the present invention. The contour at the center opening (82) which the examiner refers to in the office action is equivalent to the present invention's attachment means and is a different feature than that of the claimed subject matter.

In the '526 patent, column 5, line 9 teaches a dish 52 that has a center opening 82 through which the bearing shaft 68 is threaded. The '526 opening 82 (column 5, line 10) is supported by a bearing (bushing) 74 & 76 (column 5, line 6) these features are equivalent to the present invention's attachment means of figure 4 and figure 6 (Parent case patent number 6,662,752 column 7 line 14 to 20).

The present invention describes an attachment means, which corresponds to the '526 connecting assembly 56 & 70 ('526 patent column 4 line 65). The parent case describes a hole or cup 2, a pin 15 and a bushing 16. The hole or cup (Parent case patent number 6,662,752 column 7 line 18) is equivalent to the '526 opening 82. The pin (Parent case patent number 6,662,752 column

7 line 14) is equivalent to the '526 distal end 64 of bearing shaft 68 and the bushing (patent number 6,662,752 column 7 line 16) is equivalent to '526 bearings 74 & 76.

Applicants respectfully submit that the present invention's attachment means and the '526 connecting assembly 56 & 70 are not the element to be considered as accommodating a hub or stand. The nature of the present invention is best described starting in column 4 at line 50 of Parent case patent number 6,662,752. "The exercise disk of this invention is contoured to accommodate both the animal and hub, providing a contoured surface on the outside edge, which is convenient for the animal to run on and a contoured area within the center of the disk, which allows this disk to nest down around the device being used as a hub. (Line 56) These combined contours within the disk provide for a more compact assembly of the disk with other home devices (hubs). These combined contours provide for a lower profile of the assembly (hub and disk) than would otherwise be possible (Column 5 Line 2)." This quality (the center contour) lowers the profile of the overall assembly, which additionally lowers the running surface, making it more accessible to the animal. In view of this discussion, Applicants respectfully submit that the claimed invention is not anticipated by the '526 patent. Applicants therefore respectfully request withdrawal of this rejection.

Claims 1, 2 and 8 stand rejected under 35 U.S.C. §102 (b) as being anticipated by United States Patent No. 5,6742,101 to Saloor ("101"). Applicants respectfully submit that the '101 patent teaches a toy that is flaccid and is designed to be thrown (column 2, lines 3 - 9). The toy is not designed to spin on a hub or suitable for an animal to run on it. Applicants respectfully submit that the claimed invention is not anticipated by the '101 patent. Applicants therefore respectfully request withdrawal of this rejection.

Claims 1, 2, 6 and 7 stand rejected under 35 U.S.C. §102 (b) as being anticipated by United States Patent No. 5,360,363 to Levin ("363"). Applicants respectfully submit that the '363 patent teaches a flying disk (column 2, lines 24 - 29). The disk is not designed to spin on a hub or for an animal to run on it. Applicants respectfully submit that the claimed invention is not anticipated by the '363 patent. Applicants therefore respectfully request withdrawal of this rejection.

Claims 1, 2, and 6 - 8 stand rejected under 35 U.S.C. §102 (b) as being anticipated by United States Patent No. 3,994,262 to Suchowski et al. ("262"). Applicants respectfully submit that the '262 patent teaches a rotatable ventilated housing (column 1, lines 59 - 60). The housing is not a disc, nor is an angle between the spinning plain of the disk and the horizontal plain from about 1° to about 45° taught or suggested. Applicants respectfully submit that the claimed invention is not anticipated by the '262 patent. Applicants therefore respectfully request withdrawal of this rejection.

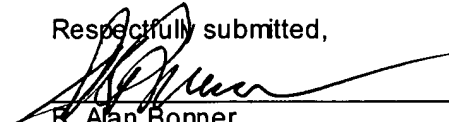
Claims 1, 2, and 6 - 8 stand rejected under 35 U.S.C. §102 (b) as being anticipated by United States Patent No. 3,999,519 to Rodemeyer ("519"). Applicants respectfully submit that the '519 patent teaches a stationary platform with a rotatable housing (column 1, lines 53 - 61). The platform is not designed for running, nor is an angle between the spinning plain of the disk and the horizontal

plain from about 1° to about 45° taught or suggested. Applicants respectfully submit that the claimed invention is not anticipated by the '519 patent. Applicants therefore respectfully request withdrawal of this rejection.

**Conclusion**

Applicants believe that the foregoing presents a full and complete response to the present Office Action. An early and favorable response to this Amendment is earnestly solicited.

Respectfully submitted,

  
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R. Alan Bonner  
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